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**PAPER CORRECTING SUMMARY OF CLAIMED SUBJECT MATTER IN THE
APPEAL BRIEF**

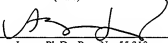
Applicant : Thagard, et al.
App. No : 10/772,049
Filed : February 4, 2004
For : MODIFIED ASPHALTIC FOAM
MATERIALS
Examiner : Cooney, J.
Art Unit : 1711

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Commissioner for Patents
P.O. Box 1450
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Sir:

This paper correcting the Summary of Claimed Subject Matter in the Appeal Brief filed on August 20, 2007 relates to an appeal to the Board of Patent Appeals and Interferences of the Final Rejection set forth in an Office Action electronically delivered on February 5, 2007. This paper is in response to an Office communication mailed on September 26, 2008 notifying the Applicants of the Order Returning Undocketed Appeal to Examiner, which held the Appeal Brief defective for not being in compliance with 37 C.F.R. § 41.37(c).

Corrected Summary of Claimed Subject Matter begins on page 2 of this paper.

Remarks begin on page 4 of this paper.

CORRECTED SUMMARY OF CLAIMED SUBJECT MATTER

The subject matter of Claim 1 relates to Applicants' discovery of a method for producing asphaltic foam. *See Application*, para. [0073]-[0080] beginning on page 16. The method comprises forming a first intermediate mixture and a second intermediate mixture, and then mixing the two intermediate mixtures to produce the asphaltic foam. Forming the first intermediate mixture involves the steps of providing an asphalt, liquefying said asphalt, and adding to said asphalt one or more isocyanates. *See Application*, para. [0073]-[0074] beginning on page 16. Then the temperature of the first intermediate mixture is brought to between about 120°F and 170°F. *See Application*, para. [0074] on page 17. The next step is forming a second intermediate mixture comprising one or more polyols, a blowing agent, and a surfactant. *See Application*, para. [0075]-[0077] on page 17. The second intermediate mixture is segregated from the first intermediate mixture. *See Application*, para. [0079] on page 18. The mixing of two intermediate mixtures involves first forcing the first intermediate mixture through a first impingement dispensing head and forcing the second intermediate mixture through a second impingement dispensing head. *See Application*, para. [0078] on page 17. Then the final reaction mixture is formed by mixing the first intermediate mixture forced through a first impingement dispensing head with the second intermediate mixture forced through a second impingement dispensing head. *See Application*, para. [0078] on page 17. The first intermediate mixture and the second intermediate mixture react and expand in a controllable manner such that the final reaction mixture does not expand beyond a form desired in a final molded asphaltic form or cure before taking on said form to produce the asphaltic foam. *See Application*, para. [0080] on page 18.

The subject matter of Claim 11 relates to Applicants' discovery of a method for producing ridge caps or roofing tiles. *See Application*, para. [0097]-[0126] beginning on page 22. The method comprises first providing a conveyor belt and applying a granule layer to the conveyor belt. *See Application*, para. [0098] and [0121] on pages 22 and 27. The method continues by providing a mold with a top side open and filling the mold with a reaction mixture produced by the method describe in Claim 1. *See Application*, para. [0106] and [0123] on pages

24 and 27. The method of Claim 1 is as described above. Then the mold is applied on the granule layer with the open side down. *See Application*, para. [0107] and [0124] on pages 24 and 28. The asphaltic foam is cured on the granule layer and thereby forming the ridge cap or the roofing tile. *See Application*, para. [0107], [0109], [0124] and [0126] on pages 24 and 28.

When using the methods of Claims 1 and 11, asphalt foams can be formed under a temperature that is sufficiently low to allow for controlled reaction. *See Application*, para. [0082] beginning on page 18. The process will result in stronger foams, while the reaction mixture has a lower initial viscosity to make it flow easier in the mold. *See Application*, para. [0089] on page 20. The resulting asphaltic foam is strong and durable with molding ability, which allows it to be molded into any desired shape such as ridge caps. *See Application*, para. [0096] on page 22.

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REMARKS

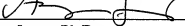
The Board of Patent Appeals and Interferences alleged that the “summary of Claimed Subject Matter” appearing on pages 2 and 3 of the Appeal Brief is deficient for not separately mapping independent claim 11 to the specification. Applicants believe that a separate mapping of claim 11 is not required because claim 11 is a dependent claim that depends on claim 1. However, in order to expedite the appeal process, Applicants hereby submit the corrected Summary of Claimed Subject Matter.

Applicants believe no fee is required. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Date: October 22, 2008

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